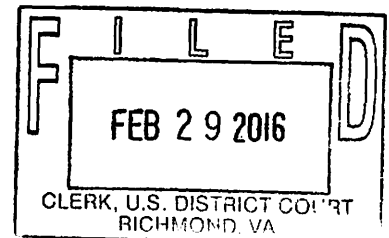


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



DENNIS WAYNE SPINDLE,

Petitioner,

v.

Civil Action No. 3:15CV133

HAROLD CLARKE,

Respondent.

MEMORANDUM OPINION

Dennis Wayne Spindle, a Virginia state prisoner proceeding pro se, brings this petition pursuant to 28 U.S.C. § 2254 ("§ 2254 Petition," ECF No. 1). Spindle challenges his convictions in the Circuit Court of the City of Fredericksburg ("Circuit Court") for malicious wounding, use of a firearm in the commission of a felony, and possession of a firearm by a convicted felon. On February 5, 2016, the Magistrate Judge issued a Report and Recommendation that recommended denying the § 2254 Petition and dismissing the action because Spindle's claims were either procedurally defaulted or lacked merit.

The Court advised Spindle that he could file objections within fourteen (14) days after the entry of the Report and Recommendation. More than fourteen (14) days have elapsed since the entry of the February 5, 2016 Report and Recommendation, and Spindle has not filed objections.

"The magistrate makes only a recommendation to this court. The recommendation has no presumptive weight, and the

responsibility to make a final determination remains with this court." Estrada v. Witkowski, 816 F. Supp. 408, 410 (D.S.C. 1993) (citing Mathews v. Weber, 423 U.S. 261, 270-71 (1976)). This Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). "The filing of objections to a magistrate's report enables the district judge to focus attention on those issues—factual and legal—that are at the heart of the parties' dispute." Thomas v. Arn, 474 U.S. 140, 147 (1985). In the absence of a specific written objection, this Court may adopt a magistrate judge's recommendation without conducting a de novo review. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 316 (4th Cir. 2005).

There being no objections, the Report and Recommendation (ECF No. 20) will be accepted and adopted. The § 2254 Petition will be denied. Respondent's Motion to Dismiss (ECF No. 12) will be granted. The action will be dismissed. The Court will deny a certificate of appealability.

The Clerk of the Court is directed to send a copy of this Memorandum Opinion to Spindle and counsel of record.

It is so ORDERED.

/s/ *REP*

Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: February *29*, 2016